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Docket No.: TER-011051

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By: 

Date: May 25, 2004

UNITED STATES IN THE PATENT AND TRADEMARK OFFICE

Applic. No. : 10/823,250  
Applicant : Thomas Herberger et al.  
Filed : April 12, 2004  
Title : Device for Folding an Intraocular Lens, and Storage System for an Intraocular Lens  
Art Unit : to be assigned  
Examiner : to be assigned  
  
Docket No. : TER-011051  
Customer No. : 24131

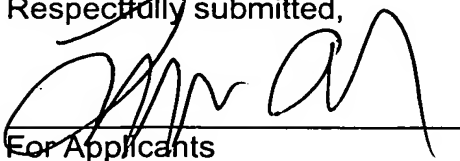
LETTER

Hon. Commissioner for Patents

Sir:

Enclosed please find a copy of the English translation of the International Preliminary Examination Report for the above-identified application. Please enter it into the file.

Respectfully submitted,

  
For Applicants

LAURENCE A. GREENBERG  
REG. NO. 29,308

Date: May 25, 2004

Lerner and Greenberg, P.A.  
Post Office Box 2480  
Hollywood, FL 33022-2480  
Tel: (954) 925-1100  
Fax: (954) 925-1101

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## PATENT COOPERATION TREATY

**PCT**  
**NOTIFICATION OF TRANSMITTAL**  
**OF COPIES OF TRANSLATION**  
**OF THE INTERNATIONAL PRELIMINARY**  
**EXAMINATION REPORT**

(PCT Rule 72.2)

From the INTERNATIONAL BUREAU

To:

TERGAU & POHL  
Mögeldorf Hauptstr. 51  
90482 Nürnberg  
Germany

EINGEGANGEN

Date of mailing (day/month/year) 29 April 2004 (29.04.04)	<b>IMPORTANT NOTIFICATION</b>
Applicant's or agent's file reference - 011051T-9/23	
International application No. PCT/EP02/11434	International filing date (day/month/year) 11 October 2002 (11.10.02)
Applicant HUMANOPTICS AG et al	

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

**2. Transmittal of the copy of the translation to the elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

CA,CN,JP,KP,KR,US

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AP,EA,EP,AE,AL,AM,AT,AU,AZ,BA,BB,BG,BR,BY,CH,CU,CZ,DE,DK,EE,ES,FI,GB,GD,GE,GH,GM,HR,HU,ID,IL,IN,IS,KE,KG,KZ,LC,LK,LR,LS,LT,LU,LV,MD,MG,MK,MN,MW,MX,NO,NZ,PL,PT,RO, RU,SD,SE,SG,SI,SK,SL,TJ,TM,TR,TT,UA,UG,UZ,VN,YU,ZA,ZW,OA

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. (41-22) 338.89.70	Authorized officer  Hélène CAMPIN (Fax 338 8970)  Telephone No. (41-22) 338 9716
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Translation

PATENT COOPERATION TREATY

PCT/EP2002/011434



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 011051T-9/23	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2002/011434	International filing date (day/month/year) 11 October 2002 (11.10.2002)	Priority date (day/month/year) 12 October 2001 (12.10.2001)
International Patent Classification (IPC) or national classification and IPC A61F 2/16, A61F 2/00		VERGABE STÄTTE PATENTANWÄLT 10.10.2001
Applicant HUMANOPTICS AG		EINGEGANGEN

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 4 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09 May 2003 (09.05.2003)	Date of completion of this report 14 January 2004 (14.01.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2002/01 1434

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☒ the description:  
 pages 1-16, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages 1-18, filed with the letter of 24 November 2003 (24.11.2003)
- ☒ the drawings:  
 pages 1/7-7/7, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

- These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/EP 02/11434

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-18	YES
	Claims		NO
Inventive step (IS)	Claims	1-18	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-18	YES
	Claims		NO

### 2. Citations and explanations

#### 1. EPC Article 123(2):

**Claim 1** has been clarified by the inclusion of functional features (see **figures 3 to 9 or 10 to 15**) and has been delimited more clearly over the prior art.

#### 2. Technical field and closest prior art:

In the technical field concerning **devices for folding intraocular lenses**, **D1 (WO96/11649A)**, which is a family member of **EP0785760B1**, cited on **page 2, line 5**, is considered representative of the closest prior art. **D1** describes a device for folding an intraocular lens (IOL), as per the preamble of **claim 1 (D1: page 13, lines 12 to 24; and figures 1 and 2)**.

#### 3. Problem:

To ensure that an intraocular lens is folded reliably and gently, with a high degree of operational reliability.

#### 4. Technical effect - Novelty [PCT Article 33(2)]:

A flexible tape loop secured by a securing end to the first half-shell of the device is movably guided

on the second half-shell, such that, by pulling thereon, the device, which in the open state forms a receiving chamber for an IOL, folds up and thus automatically folds the IOL.

5. **Inventive step [PCT Article 33(3)]:**

This combination of features for solving the problem of interest - that is, folding an IOL reliably and gently - is suggested neither by an individual prior art document nor by any combination of these documents.

In particular, none of the documents that is directed to an IOL folding device consisting of two half-shell-like elements describes the type of flexible tape loop which is used, for example, to fit orthopaedic splints (D2: US3827107A). Therefore a person skilled in the art is not prompted to use a flexible loop in the D1 IOL folding device.

Dependent **claims 2 to 18** concern further inventive embodiments.

6. **Observations:**

In the present case, the functional features combined with the structural features serve to better define the subject matter of the device claims.

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**Claims 16 to 18** are now directed to the inventive folding device when it is in the open state in a transport container, which can be considered included in the search.